

SENATE BILL NO. 15

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Commerce and Labor

on _____)

(Patron Prior to Substitute--Senator Favola)

A BILL to amend and reenact §§ 38.2-135, 38.2-316, and 38.2-1800 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-107.2, relating to insurance; private family leave insurance.

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-135, 38.2-316, and 38.2-1800 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-107.2 as follows:

§ 38.2-107.2. Private family leave insurance.

"Family leave insurance" means an insurance policy issued to an employer related to a benefit program provided to an employee to pay for a percentage or portion of the employee's income loss due to (i) the birth of a child or adoption of a child by the employee; (ii) placement of a child with the employee for foster care; (iii) care of a family member of the employee who has a serious health condition; or (iv) circumstances arising out of the fact that the employee's family member who is a service member is on active duty or has been notified of an impending call or order to active duty. Family leave insurance may be written as an amendment or rider to a group disability income policy, included in a group disability income policy, or written as a separate group insurance policy purchased by an employer.

§ 38.2-135. Classes of insurance companies may be licensed to write.

Except as otherwise provided in this title and subject to any conditions and restrictions imposed therein, any insurer licensed to transact the business of insurance in ~~this~~ the Commonwealth, other than life insurers and title insurers, may be licensed to write one or more of the classes of insurance enumerated in Article 2 (§ 38.2-101 et seq.) of this chapter that it is authorized under its charter to write, except life insurance, industrial life insurance, credit life insurance, variable life insurance, modified guaranteed life

27 insurance, annuities, variable annuities, modified guaranteed annuities, and title insurance. An insurer
28 licensed to write life insurance shall not be licensed to write any additional class of insurance except
29 modified guaranteed life insurance, variable life insurance, annuities, modified guaranteed annuities,
30 variable annuities, credit life insurance, credit accident and sickness insurance, accident and sickness
31 insurance, ~~and~~ industrial life insurance and family leave insurance. An insurer licensed to write title
32 insurance shall not be licensed to write any additional class of insurance. However, any life insurer that
33 has been licensed to write and has been actively engaged in writing life insurance and any additional class
34 of insurance set out in Article 2 (§ 38.2-101 et seq.) of this chapter continuously during a period of ~~twenty~~
35 20 years immediately preceding July 1, 1952, may continue to be licensed to write those classes of
36 insurance. No company shall write any class of insurance unless it has a current annual license from the
37 Commission to do so.

38 **§ 38.2-316. Policy forms to be filed with Commission; notice of approval or disapproval;**
39 **exceptions.**

40 A. No policy of life insurance, industrial life insurance, variable life insurance, modified
41 guaranteed life insurance, group life insurance, family leave insurance, accident and sickness insurance,
42 or group accident and sickness insurance; no annuity, modified guaranteed annuity, pure endowment,
43 variable annuity, group annuity, group modified guaranteed annuity, or group variable annuity contract;
44 no health services plan, legal services plan, dental or optometric services plan, or health maintenance
45 organization contract; no dental plan organization dental benefit contract; and no fraternal benefit
46 certificate nor any certificate or evidence of coverage issued in connection with such policy, contract, or
47 plan issued or issued for delivery in Virginia shall be delivered or issued for delivery in ~~this~~ the
48 Commonwealth unless a copy of the form has been filed with the Commission. In addition to the above
49 requirement, no policy of accident and sickness insurance or family leave insurance shall be delivered or
50 issued for delivery in ~~this~~ the Commonwealth unless the rate manual showing rates, rules, and
51 classification of risks applicable thereto has been filed with the Commission.

52 B. Except as provided in this section, no application form shall be used with the policy or contract
53 and no rider or endorsement shall be attached to or printed or stamped upon the policy or contract unless

54 the form of such application, rider or endorsement has been filed with the Commission. No individual
55 certificate and no enrollment form shall be used in connection with any group life insurance policy, group
56 accident and sickness insurance policy, group annuity contract, ~~or~~ group variable annuity contract, or
57 group family leave insurance policy unless the form for the certificate and enrollment form have been
58 filed with the Commission.

59 C. 1. None of the policies, contracts, and certificates specified in subsection A ~~of this section~~ shall
60 be delivered or issued for delivery in ~~this~~ the Commonwealth and no applications, enrollment forms,
61 riders, and endorsements shall be used in connection with the policies, contracts, and certificates unless
62 the forms thereof have been approved in writing by the Commission as conforming to the requirements
63 of this title and not inconsistent with law.

64 2. In addition to the above requirement, no premium rate change applicable to individual accident
65 and sickness insurance policies, subscriber contracts of health services plans, dental or optometric services
66 plans, or fraternal benefit contracts providing individual accident and sickness coverage as authorized in
67 § 38.2-4116 shall be used unless the premium rate change has been approved in writing by the
68 Commission. No premium rate change applicable to individual or group Medicare supplement policies
69 shall be used unless the premium rate change has been approved in writing by the Commission.

70 D. The Commission may disapprove or withdraw approval of the form of any policy, contract or
71 certificate specified in subsection A ~~of this section~~, or of any application, enrollment form, rider or
72 endorsement, if the form:

- 73 1. Does not comply with the laws of ~~this~~ the Commonwealth;
- 74 2. Has any title, heading, backing or other indication of the contents of any or all of its provisions
75 that is likely to mislead the policyholder, contract holder or certificate holder; or
- 76 3. Contains any provisions that encourage misrepresentation or are misleading, deceptive or
77 contrary to the public policy of ~~this~~ the Commonwealth.

78 E. Within 30 days after the filing of any form requiring approval, the Commission shall notify the
79 organization filing the form of its approval or disapproval of the form which has been filed, and, in the
80 event of disapproval, its reason therefor. The Commission, at its discretion, may extend for up to an

81 additional 30 days the period within which it shall approve or disapprove the form. Any form received but
82 neither approved nor disapproved by the Commission shall be deemed approved at the expiration of the
83 30 days if the period is not extended, or at the expiration of the extended period, if any; however, no
84 organization shall use a form deemed approved under the provisions of this section until the organization
85 has filed with the Commission a written notice of its intent to use the form together with a copy of the
86 form and the original transmittal letter thereof. The notice shall be filed in the offices of the Commission
87 at least 10 days prior to the organization's use of the form.

88 F. If the Commission proposes to withdraw approval previously given or deemed given to the form
89 of any policy, contract or certificate, or of any application, rider or endorsement, it shall notify the insurer
90 in writing at least 15 days prior to the proposed effective date of withdrawal giving its reasons for
91 withdrawal.

92 G. Any insurer or fraternal benefit society aggrieved by the disapproval or withdrawal of approval
93 of any form may proceed as indicated in § 38.2-1926.

94 H. This section shall not apply to any special rider or endorsement on any policy, except an
95 accident and sickness insurance policy that relates only to the manner of distribution of benefits or to the
96 reservation of rights and benefits under such policy, and that is used at the request of the individual
97 policyholder, contract holder or certificate holder.

98 I. The Commission may exempt any categories of such policies, contracts, and certificates and any
99 applicable rate manuals from (i) the filing requirements, (ii) the approval requirements of this section, or
100 (iii) both such requirements. The Commission may modify such requirements, subject to such limitations
101 and conditions which the Commission finds appropriate. In promulgating an exemption, the Commission
102 may consider the nature of the coverage, the person or persons to be insured or covered, the competence
103 of the buyer or other parties to the contract, and other criteria the Commission considers relevant.

104 J. In lieu of complying with the requirements of subsections A, B, and C, any legal services
105 organization operating, conducting, or administering a legal services plan may provide the Commission
106 with an informational filing regarding a subscription contract, enrollment form, rider, or endorsement used
107 by the legal services organization in connection with a legal services plan offered in the Commonwealth

108 together with written notice of its intent to use the form. Upon providing such informational filing and
109 notice, the legal services organization may use the subscription contract, enrollment form, rider, or
110 endorsement without its prior approval by the Commission. This subsection shall not limit the authority
111 of the Commission to review a legal services plan and any subscription contract, enrollment form, rider,
112 or endorsement used in connection therewith and to disapprove the use of such form for any of the grounds
113 set forth in subsection D.

114 K. Pursuant to the authority granted by § 38.2-223, the Commission may promulgate such rules
115 and regulations as it may deem necessary to set standards for policy and other form submissions required
116 by this section or § 38.2-3501.

117 **§ 38.2-1800. Definitions.**

118 As used in this chapter:

119 "Agent," "insurance agent," "producer," or "insurance producer," when used without qualification,
120 means an individual or business entity that sells, solicits, or negotiates contracts of insurance or annuity
121 in the Commonwealth.

122 "Appointed agent," "appointed insurance agent," "appointed producer," or "appointed insurance
123 producer," when used without qualification, means an individual or business entity licensed in the
124 Commonwealth to sell, solicit, or negotiate contracts of insurance or annuity of the classes authorized
125 within the scope of such license and who is appointed by a company licensed in the Commonwealth to
126 sell, solicit, or negotiate on its behalf contracts of insurance of the classes authorized within the scope of
127 such license and, if authorized by the company, may collect premiums on those contracts.

128 "Business entity" means a partnership, limited partnership, limited liability company, corporation,
129 or other legal entity other than a sole proprietorship.

130 "Dental plan organization authority" means the authority in the Commonwealth to sell, solicit, or
131 negotiate dental benefit contracts on behalf of dental plan organizations licensed under Chapter 61 (§ 38.2-
132 6100 et seq.).

133 "Dental services authority" means the authority in the Commonwealth to sell, solicit, or negotiate
134 dental services plan contracts on behalf of dental services plans licensed under Chapter 45 (§ 38.2-4500
135 et seq.).

136 "Filed" means received by the Commission.

137 "Health agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate
138 insurance as defined in §§ 38.2-108 and 38.2-109, and including contracts issued by insurers, health
139 services plans, health maintenance organizations, dental services plans, optometric services plans, and
140 dental plan organizations licensed in the Commonwealth.

141 "Home protection insurance authority" means the authority in the Commonwealth to sell, solicit,
142 or negotiate home protection insurance as defined in § 38.2-129 on behalf of insurers licensed in the
143 Commonwealth.

144 "Home state" means the District of Columbia and any state or territory of the United States, except
145 Virginia, or any province of Canada, in which an insurance producer maintains such person's principal
146 place of residence or principal place of business and is licensed by that jurisdiction to act as a resident
147 insurance producer.

148 "Legal services insurance authority" means the authority in the Commonwealth to sell, solicit, or
149 negotiate legal services insurance as defined in § 38.2-127 on behalf of insurers licensed in the
150 Commonwealth.

151 "License" means a document issued by the Commission authorizing an individual or business
152 entity to act as an insurance producer for the lines of authority specified in the document. Except as
153 provided in § 38.2-1833, the license itself does not create any authority, actual, apparent or inherent, in
154 the licensee to represent, commit, or bind an insurer.

155 "Licensed agent," "licensed insurance agent," "licensed producer," or "licensed insurance
156 producer," when used without qualification, means an individual or business entity licensed in the
157 Commonwealth to sell, solicit, or negotiate contracts of insurance or annuity of the classes authorized
158 within the scope of such license.

159 "Life and annuities insurance agent" means an agent licensed in the Commonwealth to sell, solicit,
160 or negotiate life insurance and annuity contracts as defined in §§ 38.2-102, 38.2-103, 38.2-104, 38.2-
161 105.1, 38.2-106, and 38.2-107.1, respectively, and family leave insurance as defined in § 38.2-107.2, on
162 behalf of insurers licensed in the Commonwealth.

163 "Limited burial insurance authority" means the authority in the Commonwealth to sell, solicit, or
164 negotiate burial insurance society membership where the certificates of membership are used solely to
165 fund preneed funeral contracts on any individual, on behalf of insurers licensed under Chapter 40 (§ 38.2-
166 4000 et seq.); or to represent an association referred to in § 38.2-3318.1, limited to soliciting members of
167 that association for association group life insurance certificates where the funds are used solely to fund
168 preneed funeral contracts.

169 "Limited lines credit insurance agent" means an agent licensed in the Commonwealth whose
170 authority is restricted to selling, soliciting, or negotiating, on behalf of insurers licensed in the
171 Commonwealth, one or more of the following coverages to individuals through a master, corporate, group
172 or individual policy: (i) credit life insurance and credit accident and sickness insurance, but only to the
173 extent authorized in Chapter 37.1 (§ 38.2-3717 et seq.); (ii) credit involuntary unemployment insurance
174 as defined in § 38.2-122.1; (iii) credit property insurance, as defined in § 38.2-122.2; (iv) mortgage
175 accident and sickness insurance; (v) mortgage redemption insurance; (vi) mortgage guaranty insurance;
176 and (vii) any other form of insurance offered in connection with an extension of credit that is limited to
177 partially or wholly extinguishing that credit obligation and that the Commission specifically determines
178 may be sold, solicited, or negotiated by those holding a limited lines credit insurance agent license. Each
179 insurer that sells, solicits or negotiates any of the coverages set forth in this definition shall provide to
180 each individual whose duties will include selling, soliciting or negotiating such coverages a program of
181 instruction that may, at the discretion of the Commission, be submitted for approval by the Commission
182 or reviewed by the Commission subsequent to its implementation.

183 "Limited lines life and health agent" means an individual or business entity authorized by the
184 Commission whose license authority to sell, solicit, or negotiate is limited to the following, or any other
185 type of authority that the Commission may deem it necessary to recognize for the purposes of complying

186 with § 38.2-1836: dental services authority; limited burial insurance authority; mutual assessment life and
187 health insurance authority; optometric services authority; and dental plan organization authority. Limited
188 lines life and health insurance shall not include life insurance, health insurance, property insurance,
189 casualty insurance, and title insurance.

190 "Limited lines property and casualty agent" means an individual or business entity authorized by
191 the Commission whose license authority to sell, solicit, or negotiate is limited to the following, or any
192 other type of authority that the Commission may deem it necessary to recognize for the purposes of
193 complying with § 38.2-1836: home protection insurance authority; legal services insurance authority;
194 mutual assessment property and casualty insurance authority; ocean marine insurance authority; pet
195 accident, sickness and hospitalization insurance authority; portable electronics insurance authority; self
196 storage insurance authority; and travel insurance. Unless otherwise defined, "limited lines property and
197 casualty insurance" shall not include life insurance, health insurance, property insurance, casualty
198 insurance, and title insurance.

199 "Mortgage accident and sickness insurance authority" means the authority in the Commonwealth
200 to sell, solicit, or negotiate mortgage accident and sickness insurance on behalf of insurers licensed in the
201 Commonwealth.

202 "Mortgage guaranty insurance authority" means the authority in the Commonwealth to sell, solicit,
203 or negotiate mortgage guaranty insurance on behalf of insurers licensed in the Commonwealth.

204 "Mortgage redemption insurance authority" means the authority in the Commonwealth to sell,
205 solicit, or negotiate mortgage redemption insurance on behalf of insurers licensed in the Commonwealth.
206 As used in this chapter, "mortgage redemption insurance" means a nonrenewable, nonconvertible,
207 decreasing term life insurance policy written in connection with a mortgage transaction for a period of
208 time coinciding with the term of the mortgage. The initial sum shall not exceed the amount of the
209 indebtedness outstanding at the time the insurance becomes effective, rounded up to the next \$1,000.

210 "Motor vehicle rental contract enroller" means an unlicensed hourly or salaried employee of a
211 motor vehicle rental company that is in the business of providing primarily private motor vehicles to the

212 public under a rental agreement for a period of less than six months, and receives no direct or indirect
213 commission from the insurer, the renter or the vehicle rental company.

214 "Motor vehicle rental contract insurance agent" means a person who (i) is a selling agent of a motor
215 vehicle rental company that is in the business of providing primarily private passenger motor vehicles to
216 the public under a rental agreement for a period of less than six months and (ii) whose license in the
217 Commonwealth is restricted to selling, soliciting, or negotiating only the following insurance coverages,
218 and solely in connection with and incidental to the rental contract:

219 1. Personal accident insurance that provides benefits in the event of accidental death or injury
220 occurring during the rental period;

221 2. Liability coverage sold to the renter in excess of the rental company's obligations under § 38.2-
222 2204, 38.2-2205, or Title 46.2, as applicable;

223 3. Personal effects insurance that provides coverages for the loss of or damage to the personal
224 effects of the renter and other vehicle occupants while such personal effects are in or upon the rental
225 vehicle during the rental period;

226 4. Roadside assistance and emergency sickness protection programs; and

227 5. Other travel-related or vehicle-related insurance coverage that a motor vehicle rental company
228 offers in connection with and incidental to the rental of vehicles.

229 The term "motor vehicle rental contract insurance agent" does not include motor vehicle rental
230 contract enrollers.

231 "Mutual assessment life and health insurance authority" means the authority in the Commonwealth
232 to sell, solicit, or negotiate mutual assessment life and accident and sickness insurance on behalf of
233 insurers licensed under Chapter 39 (§ 38.2-3900 et seq.), but only to the extent permitted under § 38.2-
234 3919.

235 "Mutual assessment property and casualty insurance authority" means the authority in the
236 Commonwealth to sell, solicit, or negotiate mutual assessment property and casualty insurance on behalf
237 of insurers licensed under Chapter 25 (§ 38.2-2500 et seq.), but only to the extent permitted under § 38.2-
238 2525.

239 "NAIC" means the National Association of Insurance Commissioners.

240 "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or
241 prospective purchaser of a particular contract of insurance concerning any of the substantive benefits,
242 terms or conditions of the contract, provided that the person engaged in that act either sells insurance or
243 obtains insurance from insurers for purchasers.

244 "Ocean marine insurance authority" means the authority in the Commonwealth to sell, solicit, or
245 negotiate those classes of insurance classified in § 38.2-126, except those classes specifically classified as
246 inland marine insurance, on behalf of insurers licensed in the Commonwealth.

247 "Optometric services authority" means the authority in the Commonwealth to sell, solicit, or
248 negotiate optometric services plan contracts on behalf of optometric services plans licensed under Chapter
249 45 (§ 38.2-4500 et seq.).

250 "Personal lines agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate
251 insurance as defined in §§ 38.2-110 through 38.2-114, 38.2-116, 38.2-117, 38.2-118, 38.2-124, 38.2-125,
252 38.2-126, 38.2-129, 38.2-130, and 38.2-131 for transactions involving insurance primarily for personal,
253 family, or household needs rather than for business or professional needs.

254 "Pet accident, sickness and hospitalization insurance authority" means the authority in the
255 Commonwealth to sell, solicit, or negotiate pet accident, sickness and hospitalization insurance on behalf
256 of insurers licensed in the Commonwealth.

257 "Property and casualty insurance agent" means an agent licensed in the Commonwealth to sell,
258 solicit, or negotiate both personal and commercial lines of insurance as defined in §§ 38.2-110 through
259 38.2-122.2, and §§ 38.2-124 through 38.2-134 on behalf of insurers licensed in the Commonwealth.

260 "Resident" means (i) an individual residing in Virginia; (ii) an individual residing outside of
261 Virginia whose principal place of business is in Virginia, who is able to demonstrate to the satisfaction of
262 the Commission that the laws of his home state prevent him from obtaining a resident agent license in that
263 state, and who affirmatively chooses to qualify as and be treated as a resident of Virginia for purposes of
264 licensing and continuing education, both in Virginia and in the state in which the individual resides, if
265 applicable; (iii) a partnership duly formed and recorded in Virginia; (iv) a corporation incorporated and

266 existing under the laws of Virginia; (v) a limited liability company organized and existing under the laws
267 of Virginia; or (vi) a foreign business entity that is not licensed as a resident agent in any other jurisdiction,
268 and that demonstrates to the satisfaction of the Commission that its principal place of business is within
269 the Commonwealth of Virginia.

270 "Restricted nonresident health agent" means a nonresident agent whose license authority in his
271 home state does not include all of the authority granted under a health agent license in Virginia. The
272 license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf of
273 insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is authorized in
274 his home state.

275 "Restricted nonresident life and annuities agent" means a nonresident agent whose license
276 authority in his home state does not include all of the authority granted under a life and annuities agent
277 license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate
278 in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which
279 the agent is authorized in his home state.

280 "Restricted nonresident personal lines agent" means a nonresident agent whose license authority
281 in his home state does not include all of the authority granted under a personal lines agent license in
282 Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia,
283 on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is
284 authorized in his home state.

285 "Restricted nonresident property and casualty agent" means a nonresident agent whose license
286 authority in his home state does not include all of the authority granted under a property and casualty agent
287 license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate
288 in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which
289 the agent is authorized in his home state.

290 "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on
291 behalf of an insurer.

292 "Settlement agent" means a person licensed as a title insurance agent and registered with the
293 Virginia State Bar pursuant to Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1.

294 "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular
295 class of insurance from one or more insurers.

296 "Surety bail bondsman" means a person licensed as a surety bail bondsman pursuant to Article 11
297 (§ 9.1-185 et seq.) of Chapter 1 of Title 9.1.

298 "Surplus lines broker" means a person licensed pursuant to Article 5.1 (§ 38.2-1857.1 et seq.) of
299 this chapter, and who is thereby authorized to engage in the activities set forth in Chapter 48 (§ 38.2-
300 4805.1 et seq.).

301 "Terminate" means the cancellation of the relationship between an insurance producer and the
302 insurer, or the termination of an insurance producer's authority to transact insurance.

303 "Title insurance agent" means an agent licensed in the Commonwealth to sell, solicit, or negotiate
304 title insurance, and performing all of the services set forth in § 38.2-4601.1, on behalf of title insurance
305 companies licensed under Chapter 46 (§ 38.2-4600 et seq.).

306 "Uniform Application" means the current version of the NAIC Uniform Application for resident
307 and nonresident producer licensing.

308 "Uniform Business Entity Application" means the current version of the NAIC Uniform Business
309 Entity Application for resident and nonresident business entities.

310 "Variable contract agent" means an agent licensed in the Commonwealth to sell, solicit, or
311 negotiate variable life insurance and variable annuity contracts on behalf of insurers licensed in the
312 Commonwealth.

313 "Viatical settlement broker" means a person licensed pursuant to Chapter 60 (§ 38.2-6000 et seq.),
314 in accordance with Article 6.1 (§ 38.2-1865.1 et seq.) of this chapter, and who is thereby authorized to
315 engage in the activities set forth in Chapter 60 (§ 38.2-6000 et seq.).

316 #